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C O N F I D E N T I A L SECTION 01 OF 02 SUVA 000009

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TAGS: [ETRD](#) [EINV](#) [FJ](#)

SUBJECT: FLAGSHIP U.S. INVESTMENT "FIJI WATER" UNDER THREAT

REF: A. 2007 SUVA 580

[1](#)B. 2007 SUVA 418

Classified By: Amb. Dinger. Reasons 4.2 (b) and (d)

Summary

[1](#)1. (C) A dispute over transfer pricing has led the Fiji Islands Revenue and Customs Authority (FIRCA) to suspend exports of Fiji Water. Interim Finance Minister Chaudhry and FIRCA are demanding that U.S.-owned Natural Waters of Viti Limited (NWVL) increase its invoiced cost per case of water destined to its U.S. parent company by 350 percent before customs will again permit exports. The ultimatum has already resulted in two regular shipments to the United States being stopped. Just hours after NWVL officials were told of the demand by FIRCA, a letter from Chaudhry arrived advising that, due to supposed failure to provide requested information about transfer pricing, the company's ten-year tax exemption will be terminated in 21 days, approximately one year before its expiration date. NWVL Director David Roth told the Ambassador January 8 that some 250 shipping containers of Fiji Water, valued at about \$1.5 million on the U.S. market, are stuck on the dock. Roth said the proposed invoice-valuation increase, coupled with the loss of the tax exemption, would theoretically boost Fiji tax revenues tremendously but would make the company unviable. Company attorneys are preparing lawsuits, ready to be launched as early as Monday, January 14, if further talks with the interim government do not bear fruit. Roth asked the Ambassador to contact the interim Prime Minister's office to flag that the issue is serious, and he requested a USG media statement, for use as early as Jan. 14, if necessary. End Summary.

Shocking news

[1](#)2. (C) Roth rushed back from a holiday in the U.S. when FIRCA on Jan. 4 advised NWVL that, beginning immediately, NWVL invoices submitted to Customs for clearance of Fiji Water shipments out of Fiji must show a cost of US\$ 24 per case. The figure would constitute a 347 percent increase from the current listed price of US\$ 6.91. Presumably, it would become the base for Fiji's 31 percent tax that will apply to the company's shipments once its tax exemption is gone. The increase effectively raises the invoiced cost of each 500 milliliter bottle of Fiji Water shipped to the United States market from 28.8 cents to one dollar (Note: the prices reported here are commercial confidential information.) Roth said that, based on current margins, if the increase were

passed along proportionally through the existing complex distribution and marketing chain, end consumers in the United States would have to pay US\$ 30 for a bottle of Fiji Water. Roth said the increase threatens the very existence of Fiji Water as a viable company.

13. (C) Roth said the FIRCA pricing ultimatum, which has only been made verbally thus far, has already blocked two shipments of water to the United States, on Friday the 4th and again on Monday the 7th. While sufficient inventory is on hand in the U.S. to manage demand for "a couple of months," the failure to make the two shipments has resulted in significant monetary liabilities as a result of contractual shipping obligations. If shipments are not resumed within two to three weeks, Roth said, "the company could be on the block." He and one of NWVL's senior legal counselors intend to call on members of the interim government and on the military council to inform them of the situation and explain the consequences.

Requests for USG help

14. (C) Roth said Fiji Water and its parent company, Roll International in LA, are preparing a number of legal challenges to the Finance Ministry and FIRCA actions. The company has also dispatched a public relations team to Fiji to manage the anticipated battle for public hearts and minds, aimed at alerting Fiji's people to the huge negative international fallout likely if Finance doesn't change course. If talks with government figures, up to and including Prime Minister Bainimarama are not successful, the situation could reach the crisis stage as early as Monday the 14th. Roth asked if the Ambassador could speak with the permanent secretary in the prime minister's office, Parmesh

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Chand, to make sure the PM is aware of FIRCA's demand and the Finance Minister's decision to revoke the tax exemption. (Chand has not yet returned our calls.) Roth also asked the Ambassador for an embassy statement in support of Fiji Water.

The Ambassador proposed to consult with Washington on a statement to emphasize the importance of rule of law and a level playing field in international commerce, noting the potential damage to Fiji's international reputation as an investment destination.

Possible explanations for irrationality

15. (C) Roth has briefed the embassy previously about a growing tension between elements of the interim government and Fiji Water. Repeated efforts to explain the intricacies of the U.S. beverage market to government officials, including details of NWVL's pricing policies, had not convinced some in the government. Certain suspicious Finance Ministry and FIRCA officials inevitably have reverted to the argument that something is wrong with the transfer pricing calculation if bottles leaving Fiji are priced at 29 cents and end up costing nine dollars in hotel mini-bars. Roth said that in a meeting on the 8th with the CEO of FIRCA, Jagat Narayan, and with FIRCA staffers, Narayan came to accept the logic of NWVL's transfer pricing; but Narayan said the increase and shipping ban "were not my choice." He indicated his hands were tied on orders from higher up, presumably by Minister Chaudhry.

16. (C) Roth speculates that several factor's beyond lack of knowledge about transfer pricing may be at work. A former NWVL employee, a Polish citizen who was fired several years ago, has become a FIRCA consultant. A British/New Zealand citizen who is now on FIRCA's staff at one time was the Pole's lawyer. NWVL suspects both continue to have axes to grind. Also, Roth is concerned that local competitors reportedly have gained Chaudhry's ear. As reported Ref B, Chaudhry has previously warned that "any obstacle put in the way of achieving Island Chill's (a locally owned, Fiji Water competitor's) goal will be dealt with decisively." Another

possibility is that the interim government, desperate for revenue, really thinks NWVL can be its "golden goose." Roth said it is not clear whether the pricing demand and threat to the tax exempt status are a bluff, a "bad opening to a negotiation," or an attack on the American company, aimed possibly at driving it out of Fiji in favor of a local owner.

In his view, the interim government's moves do not bear the markings of what would be part of a rational negotiation process.

Potential disaster for all

7 (C) Since the December 2006 coup and the resultant economic downturn, particularly in the tourism sector, Fiji authorities have been worried about the country's foreign exchange position. Bottled water is the only big export earner that is clearly still on the rise. The current push against Fiji Water threatens to turn even that success story into a disaster.

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